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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,997	12/09/2002	Fredric T. Cuddy	314200.132	6673

24239 7590 11/17/2003

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EXAMINER

FULTON, CHRISTOPHER W

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,997

Applicant(s)

CUDDY, FREDRIC T.

Examiner

Christopher W. Fulton

Art Unit

2859

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7, 8, 10-19, and 26-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekino et al.

The device as claimed is disclosed by Sekino et al with a level indicator holder 30 with a level 70 having grip assemblies.

3. Claims 20 and 23-25 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Weise et al.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekino et al in view of Burge.

The device as claimed is disclosed by Sekino et al as stated in the rejection recited above for claims 1-3, 7, 8, 10-19, and 26-33, but lacks the level indicator being a bubble vial set in a recess of the elongate member.

Burge teaches using a bubble vial set in a recess of an elongate member wedged between two members to determine orientation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a bubble vial set in a recess in the elongate member of Sekino et al as taught by Burge as a lower cost alternative level indicating means.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekino et al.

The device as claimed is disclosed by Sekino et al as stated in the rejection recited above for claims 1-3, 7, 8, 10-19, and 26-33, but lacks the device being mounted on the outside of the steering wheel level.

It has long been held that the rearrangement of existing parts is not considered patentably distinct. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the device of Sekino et al to the outside of the wheel as oppose to the inside of the wheel as an alternative location of the measuring device that does not change the function of the device.

7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weise et al in view of Sekino et al.

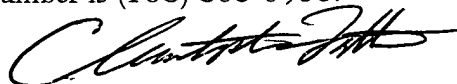
The device as claimed is disclosed by Weise et al as stated in the rejection recited above for claims 20 and 23-25, but lacks the level indicator being compressible to releasably attach the device to a steering wheel.

Sekino et al teaches using a compressible level indicator to removably attach the device to a steering wheel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the level indicator of Weise et al compressible as taught by Sekino et al to quickly removably attach the device to a steering wheel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher W. Fulton whose telephone number is (703) 308-3389. The examiner can normally be reached on M,T,Th,F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Christopher W. Fulton
Primary Examiner
Art Unit 2859

CWF